UNITED NATIONS

A

General Assembly

Distr.
GENERAL

A/47/381
28 September 1992

ORIGINAL: ENGLISH

Forty-seventh session
Agenda item 93 (b)

SOCIAL DEVELOPMENT: CRIME PREVENTION AND CRIMINAL JUSTICE

The strengthening of international cooperation in combating organized crime

Report of the Secretary-General

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I. INTRODUCTION

1. In response to the alarming developments occurring at the global level, the General Assembly, in its resolution 44/71 of 8 December 1989, requested the Committee on Crime Prevention and Control 1/ to consider ways of strengthening international cooperation in combating organized crime, taking due account of the opinions of Governments, intergovernmental and non-governmental organizations, as well as opinions expressed at and decisions taken by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and to submit its views, through the Economic and Social Council, to the Assembly at its forty-seventh session.

2. The following year, the Eighth Congress adopted, in recognition of the concerns expressed by the General Assembly, two relevant resolutions. In the first of these, resolution 15, entitled "Organized crime", the Committee on Crime Prevention and Control was invited to study the need for, and the possibility and usefulness of, establishing a universal and/or regional register of judicial sentences that would record the sentences imposed for the offences of drug trafficking, trafficking in arms and persons, terrorism, and offences against ecosystems and cultural property when such offences have been committed in a manner involving transnational modalities, or to explore the possibility of setting up an improved system for the exchange of existing information and data.

3. The second resolution, resolution 24, entitled "Prevention and control of organized crime", adopted Guidelines for the prevention and control of organized crime; urged Member States to give favourable consideration to their implementation at both national and international levels, as appropriate; and invited Member States to make available to the Secretary-General the provisions of their legislation relating to money laundering, to the tracing, monitoring and forfeiture of the proceeds of crime, the monitoring of large-scale cash transactions and other measures, enabling these to be made available to Member States desiring to enact or further develop legislation in these fields. Thirty-eight Member States have responded to this request and others are exhorted to do so.

4. The General Assembly, by its resolution 45/121 of 14 December 1990, welcomed the instruments and resolutions adopted by the Eighth Congress and invited Governments to be guided by them in the formulation of appropriate legislation and policy directives. Further, the resolution endorsed the decision of the Eighth Congress that priority attention should be given to specific practical measures to combat international crime over the forthcoming five-year period.

5. The General Assembly also adopted, on the same date, resolution 45/123, entitled "International cooperation in combating organized crime", in which it urged Member States to give favourable consideration to the implementation of the Guidelines for the prevention and control of organized crime, as contained in the annex to resolution 24 of the Eighth Congress; invited them to make

available to the Secretary-General the provisions of their legislation relating to money laundering, the tracing, monitoring and forfeiture of proceeds of crime and the monitoring of large-scale cash transactions and other measures so that they be made available to Member States desiring to enact or further develop legislation in these fields; reiterated the request formulated in its resolution 44/71 that the Committee consider ways of strengthening international cooperation in combating organized crime and submit its views, through the Economic and Social Council, to the Assembly at its forty-seventh session; and called upon Member States, international organizations and interested non-governmental organizations to cooperate with the United Nations in organizing the International Seminar on Organized Crime, held in Moscow in October 1991.

6. The Ad Hoc Expert Group Meeting on Strategies to Deal with Transnational Crime, programmed in the programme budget for 1990-1991, was held from 27 to 31 May 1991 at Smolenice Castle, Bratislava, Czechoslovakia, with the Ministry of Foreign Relations of the Slovak Republic acting as host, and was attended by experts representing all five geographical regions, and by a representative of the International Criminal Police Organization (ICPO/Interpol).

7. The Meeting strongly emphasized the urgent need to respond more effectively to transnational criminality, particularly in view of the exploitation by transnational criminals of the current practices of sovereignty and territorial jurisdiction. In this manner, these offenders succeeded in carrying out their illicit operations with considerable risk-reduction. It was clear, in the opinion of the experts, that the legal tools available to Governments were often unsuited for effectively combating the new transnational manifestations of criminality. This situation acted as an impediment to the optimal observance of treaty obligations.

8. In the hope of contributing to closer international cooperation, the Meeting adopted a number of recommendations covering national, regional and international action in this area.

9. In pursuance of General Assembly resolution 45/123, the Secretariat, in cooperation with the Ministry of the Interior of the former Union of Soviet Socialist Republics, convened the International Seminar on Organized Crime, which was held at Suzdal, from 21 to 25 October 1991, with the financial support of the Department of Technical Cooperation for Development of the United Nations, now part of the Department of Economic and Social Development, and the cooperation of the Helsinki Institute of Crime Prevention and Control, affiliated with the United Nations (HEUNI).

10. The Seminar was attended by leading law enforcement officials and experts from 15 countries, from ICPO/Interpol and from the Office of International Criminal Justice of the University of Illinois at Chicago, and formulated a number of practical measures against organized crime. These measures include considerations concerning the nature and extent of the problem and its impact upon various areas of social, political and economic life, and address themselves to action in terms of substantive and procedural legislation, law

enforcement methods, organizational structures, international cooperation and the evaluation of the gravity of the threat.

11. The reports of these two meetings were submitted to the Commission on Crime Prevention and Criminal Justice at its first session, held at Vienna from 21 to 30 April 1992 (E/CN.15/1992/4/Add.1 and 2).

12. At that session, the Commission recommended the adoption by the Economic and Social Council of two draft resolutions (E/1992/30, chap. I.A, draft resolutions I and II). The first of these establishes, inter alia, national and transnational crime, organized crime, economic crime, including money laundering, and the role of criminal law in the protection of the environment as priority themes for the United Nations crime prevention and criminal justice programme.

13. Draft resolution II noted the recommendation of the Suzdal and Smolenice meetings and requested the Secretary-General to continue the analysis of the impact of organized criminal activities upon society at large, with a view to keeping the Commission informed.

14. Both draft resolutions were adopted by the Economic and Social Council as resolutions 1992/22 and 1992/23 of 30 July 1992.

15. The Commission, at its first session, also adopted resolution 1/2, which requested the Secretary-General, inter alia, to examine the possibility of coordinating efforts already made at the multilateral level against the laundering of proceeds of crime and related offences, including embezzlement, and to study and propose means for rendering technical assistance to requesting Member States in drafting or revising legislation, in training financial, investigative, law enforcement and judicial personnel, in developing regional, subregional or bilateral cooperation, and in providing advice on relevant strategies and techniques.

II. THE NATURE AND EXTENT OF THE PROBLEM

16. The multifarious activities of organized crime have long been perceived by national authorities as constituting a grave threat to public security, the rule of law and other fundamental social, economic and political institutions. Consequently, these authorities have carried out a consistent and constant war on criminal organizations. These efforts, unfortunately, seem to have been crowned by only partial success or even, in some cases, by almost total failure. In fact, instead of showing any noticeable decrease, the activities of organized crime are flourishing and have extended themselves effectively beyond national borders and, thus, beyond national jurisdictions. This "transnationalization" of organized crime represents a situation that is both quantitatively and qualitatively different from that which prevailed in the past and which, needless to say, complicates the implementation of effective prevention and control measures.

17. The evolution of organized crime can be regarded as a process of rational reorganization on an international basis of criminal "enterprises" following the same patterns as legal enterprises. It reflects a trend towards the greater organizational complexity characteristic of modern societies, both developed and developing. Criminal organizations are being structured like major corporations, with an operational arm to move the "goods and services" and a financial arm to manage the proceeds. The two arms tend to be kept quite separate with quite different people working in each. This separation of activities again renders detection more difficult.

18. The criminal enterprise, however, follows its ends by engaging in specific illicit activities by the use of corruption and intimidation against law enforcement and other public administration agencies to reduce the risk of detection, prosecution and forfeiture of illegally acquired assets, and to maximize profits. There is also evidence suggesting that organized crime is investing its illicit proceeds into legitimate business enterprises, both as a means of laundering and by using the above-mentioned methods to acquire a monopolistic position in the market.

19. Organized crime has also become more imaginative, more diversified, more daring and far more aggressive. To the better known groups, such as the Mafia or Cosa Nostra, new entities have to be added, many of them based upon, or making use of, ethnic identities and cultures. In this manner, criminal organizations have come to be recognized, such as Triads, Yakuza and other ethnic based gangs and cartels, to mention only the better known. Although these groupings may on occasion cooperate, depending on the specific operation at hand, they may also often wage war against each other. The emerging situation appears then more like an oligopolistic than a monopolistic market.

20. Organized crime has been predominantly associated in the public mind with illicit drug trafficking. Reports of billionaire profits and of millionaire seizures of drugs are bound to capture the imagination of the citizenry. However, without denying the important role that the drug trade occupies in national and transnational organized criminal activities, it must not be overlooked that organized crime has always been more diversified. Changing circumstances are increasing its opportunities.

21. Recently, the downfall of one-party regimes in Central and Eastern Europe and the former Soviet Union has opened up extensive possibilities to both domestic and "imported" organized crime. Organized criminality has been fast to take advantage of the hiatus between the dismantling of pre-existing structures and their replacement with effective structures reflecting the new political, social and economic realities. As a result, organized crime flourishes in those countries, menacing the viability of still frail political institutions.

22. There is evidence suggesting a vast increase in the illicit arms trade, particularly as a result of ethnic violence in the Balkans, the Carpathians and the Caucasus, but also in other parts of the world. Entire arsenals have become accessible to criminal entrepreneurs who have established the necessary

organizations to exploit this trade. The danger of these organizations' gaining access to nuclear devices and fissionable material cannot be excluded, particularly in view of the political instability in new countries that have emerged from former centrally controlled larger political entities.

23. Another example is the rapidly growing trade with stolen cars, reflected in the statistics in Western Europe. According to a major European law enforcement agency it is suspected that a single criminal organization is responsible for 90 per cent of luxury car thefts in this region. The damage to insurance companies and the public in general runs into the tens of millions of dollars. Newly opened borders allow the easy transport of stolen cars to Eastern Europe, where they are re-routed, with counterfeit documents of excellent quality, to the Near East, Africa and Latin America. The criminal organization responsible is reported to have extended its tentacles to North America, from where stolen cars are shipped to Europe.

24. The hijacking of lorries throughout Europe and North America, an activity akin to the piracy of centuries past, is another criminal operation most effectively managed by organized crime. The number of hijacked vehicles runs into the thousands every year. The prevention of this activity presents a grave challenge to the authorities given the enormous volume of goods being transported in this manner coupled with the growing openness of borders necessitated by new economic arrangements. The resale of the stolen goods, such as electronic equipment and electric appliances, follows well established channels and yields enormous profits, mainly at the expense of insurance companies but, ultimately, at the expense of the general public, since these companies pass on to the consumers the increased insurance costs.

25. Recently, the authorities of the Russian Federation have reported the loss of thousands of art objects, particularly icons, which have been stolen from monasteries and churches by organized criminals and taken to the Western art markets. The market value of these objects is obviously immense. Their value as part of the identity of the Russian people cannot be estimated in material terms. Organized crime seems to be equally involved in art theft and in the illicit trade with archaeological items, operations currently estimated to represent a volume of business of approximately 6 to 8 billion dollars per annum. The increases recently recorded run between 300 and 600 per cent for a period of two years. 2/

26. As a response to the concern expressed in this connection by Governments and museums, and to the initiatives taken by the Eighth Congress, the newly established International Scientific and Professional Advisory Council (ISPAC) convened, in cooperation with the Crime Prevention and Criminal Justice Branch, and the Division of Physical Heritage of the United Nations Scientific, Cultural and Educational Organization (UNESCO), and under the sponsorship of the Fondazione su Diritto, Società e Economia, an International Workshop on the Protection of Artistic and Cultural Property, was held from 25 to 27 June 1992, at Courmayeur, Aosta Valley, Italy.

27. The participants pointed to the interfaces between perpetrators of crimes against cultural property and the illicit drug trade, a link often ignored by the authorities. The rapid increases in recent years in the illicit trade with art objects and cultural property were considered alarming by the countries affected. Open borders will contribute to further increases. International cooperation was therefore indispensable to an effective control of this form of criminality, as it is, indeed, with respect to other forms of transnational criminality.

28. The Workshop was attended by representatives of 15 Governments, of ICPO/ Interpol and of the International Council of Museums (ICOM). The Workshop adopted by consensus the Charter of Courmayeur, containing a number of recommendations aimed at enhancing international cooperation to prevent crimes against movable cultural property.

29. The regular use of "plastic" and "electronic" money has also attracted the interest of organized crime. The organized theft and falsification of credit cards offers excellent opportunities for illicit profits, while the daily transfer of large amounts of money around the world can be fraudulently diverted.

30. There is evidence to suggest that organized crime is also active in the illicit disposal of dangerous and toxic wastes. These materials are often dumped in international waters regardless of the damage they cause to the environment. Some developing countries have been paid to accept such waste products without having the capacity to ascertain possible consequences to remedy them. The long-term effects are likely to be deleterious for both humans and animals, as well as the environment generally.

31. There is evidence that organized crime is involved in the black market for transplant organs. The large number of impoverished persons, including children, found in the streets of urban areas in developing countries is considered by organized crime as the cheapest and most readily available source of such organs. It is likely that this black market will increase in importance as technological advances simplify the preservation of organs after removal from the bodies of victims.

32. As mentioned earlier, infiltration of legitimate business is also practised widely by organized crime and has extended into the international financial system. It is used both as a means of laundering large amounts of cash earned through criminal activities and to provide a licit façade.

33. Infiltrated businesses are then protected and expanded by traditional organized crime methods, such as threats and violence against competitors. The negative impact of this on regular commercial realities cannot be overestimated, since the distortions it causes in the dynamics of the market may result in extreme economic and financial instability, the more so in developing countries.

34. While the proceeds of rackets, protection, prostitution, illegal gambling and so on have been laundered for many years, new forms of organized crime, including drug trafficking, have added both growth and sophistication to money laundering. Paradoxically, modern laws criminalizing money laundering and permitting the confiscation of proceeds of crime have also added to this sophistication.

35. Money laundering is a complex and diverse business with international dimensions. There is no one method for "washing the cash", and no single destination once it is clean. Business and financial enterprises involved can include deposit-taking institutions, currency exchange houses, the securities market and real estate corporations. Various devices are used: utilizing more than one account, branch and institution in one laundering operation; employing money couriers with false identifications to open accounts; utilizing fake currency exchange houses to deposit large amounts into banks without raising suspicion; establishing legitimate or shell companies as fronts; purchasing securities through nominee accounts; utilizing stock certificates issued in bearer form; passing funds through corporations in apparently legal business activities, thus creating a difficult paper trail; moving illicit funds across borders to obscure their true source and to obstruct financial investigations; and many other methods. The ultimate objective is that the money is made suitable to feed back into the system in "legitimate" ways. Indications are that, despite the efforts of the authorities and a certain amount of success, vast quantities of cash are indeed slipping back into the mainstream.

36. Organized crime is known to be active in the area of public contracts, such as those for the construction of highways, stadiums and other large-scale undertakings. The construction industry appears, in several countries, to have fallen largely in the hands of criminal organizations. The assignment of these contracts is influenced by bribery. The quality of the final products is often deficient, since one way of increasing profits is by violating construction regulations and the contractually specified obligations.

37. The above paragraphs far from exhaust the areas of activity of organized crime. Activities such as insurance fraud, fraudulent bankruptcy, traffic in persons, corporate and so-called "white collar" crime are also becoming more noticeable.

38. No country can be said to be completely free from, or fully immune to, the depredations of organized crime. There are no happy islands untouched by at least one of the major criminal rings. That this is so in spite of massive efforts undertaken by some very wealthy countries is good grounds for classifying organized crime as extremely dangerous to the integrity of society. In fact, some societies live already under virtual siege, incapable of protecting themselves and their citizens from the onslaught.

39. The interface with political power is an integral part of the phenomenon of organized crime. This poses major problems for the administration of justice, which must deal not only with the criminal phenomena themselves, but

also with the insidious interference of political and administrative power. Considerable training remains necessary to cope with this.

40. Rampant corruption in a number of societies undermines the effectiveness of action against organized crime. And those who are not bought off are silenced by fear of consequences, or, if need be, murdered. The assassinations of Judges Giovanni Falcone (who led the Italian delegation to the inaugural session of the Commission on Crime Prevention and Criminal Justice) and Paolo Borsellino and numerous senior law enforcement figures around the world serve as an illustration of organized crime's ruthlessness and perseverance. The impact of such a situation upon the morale of the citizens and the smooth functioning of vital institutions could not be more destructive. The perception of the impotence of the State vis-à-vis criminal groups wreaks havoc on the credibility of the rule of law.

41. The rationalization and continued use, and exploitation, of modern technology by criminal organizations is likely to influence profoundly the nature and scope of crime in the coming years. Additionally, a functional interdependence has developed that increasingly links traditionally separate areas of criminality.

III. SOME RECENT INITIATIVES

42. Both the Crime Prevention and Criminal Justice Branch and the United Nations International Drug Control Programme have done considerable work on the implementation of their respective mandates, where possible in collaboration. However, there is scope for closer cooperation. At the last session of the Commission on Narcotic Drugs and the first session of the Commission on Crime Prevention and Criminal Justice recommendations were made to and subsequently adopted by the Economic and Social Council, calling for closer cooperation in order to increase the efficiency and effectiveness of United Nations activities and to enable proper coordination and the avoidance of duplication. To this end, the Crime Prevention and Criminal Justice Branch and the United Nations International Drug Control Programme have undertaken a number of initiatives and are planning the development and carrying out of joint activities particularly in areas of international cooperation including extradition and mutual assistance. Joint staffing technical cooperation and needs assessment missions have already been undertaken and are to be expanded, particularly in priority areas identified by the respective Commissions.

43. Priority is being given by both the Crime Prevention and Criminal Justice Branch and the United Nations International Drug Control Programme to strengthening existing coordination and collaboration with other elements of the United Nations system as well as with partners outside that system which have achieved significant results in the fight against transnational crime, including drug trafficking. The objective is to ensure the attainment of optimum results from the use of limited resources available at the international, regional and national levels. Much quality work has been done both within and outside the United Nations system. Some of this work has not

been fully utilized by the international community, for example due to the regional nature of the body which produced it. By disseminating, and where applicable, building on this work maximum results can be achieved by the most effective use of limited resources. Some recent initiatives are set out below.

44. The Resource Committee on Transnational Crime of ISPAC of the United Nations for the Crime Prevention and Criminal Justice Programme convened a meeting of experts on money laundering and control at Courmayeur, Aosta Valley, Italy, from 23 to 28 March 1992, The meeting resulted in a proposed outline for an international conference on the subject in question (E/CN.15/1992/NGO/4).

45. The proposed outline includes, under the heading "Money laundering", (a) an examination of the present trends of the phenomenon and its techniques; and (b) a consideration of the responses necessary for the effective prevention of this offence, such as punishability under national law, seizure and confiscation, technical assistance and training of personnel. The proposed outline includes discussion of the role and obligations of financial institutions, such as reporting, and collaboration with the authorities, with due consideration of the right to confidentiality, and an examination of possible responses of the international community to non-complying countries, such as assistance, persuasive measures and sanctions (E/CN.15/1992/NGO/4).

46. The Basel Statement of Principles, recognizing that public confidence in banks may be undermined by their association with criminals, outlines a number of basic principles with a view to combating money laundering operations through the banking system by, inter alia, customer identification; compliance with laws and regulations pertaining to financial transactions and a refusal to assist transactions that appear to be associated with money laundering; and cooperation with law enforcement authorities to the extent permitted by regulations relating to customer confidentiality. Although practical measures have already been taken in many countries, such as the appointment of compliance officers in banks responsible for applying internal programmes against money laundering, and although some countries oblige banks to report suspect transactions, in other countries bank secrecy laws and the existence of anonymous bank accounts are perceived by some as not justified by the requirements of legitimate business activities. This facilitates money laundering and creates difficulties in tracing unlawfully obtained assets.

47. Concepts of mutual assistance, including both investigative and judicial assistance, are of long standing, but assistance in relation to the tracing, seizing, freezing and, ultimately, the confiscation of the proceeds of crime is of fairly recent origin. One reason for this is the time-honoured principle of international law that one country should not enforce the criminal laws or judgements of another. Given the recognition of the interdependence of the community of nations in the fight against organized crime, particularly in situations where organized crime actively uses borders to exploit the consequent fragmentation of effort by law enforcement, this should be re-examined. Proceeds of crime is one area where some countries are

now prepared to give full faith and credit to orders of courts of other countries, notwithstanding their criminal nature.

48. The international community, through the adoption in 1988 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, has expressed its universal abhorrence of drug-related money laundering by requiring it to be criminalized as well as requiring international cooperation in combating it. Technical cooperation activities, both within and outside the United Nations system, are aimed at giving effect to the money-laundering obligations under the Convention on a wider, that is, non-drug specific, basis. This is important as double standards, particularly in criminal law, are not conducive to the maintenance of the rule of law or to international cooperation.

49. There are also other promising indications of a greater willingness to cooperate in both the investigation and prosecution of criminal activity, including money laundering. Such cooperation frequently includes assistance in the tracing, freezing and confiscation of the proceeds of crime. Some countries have large-scale bilateral mutual assistance in criminal matter treaty negotiation programmes; frequently the Model Treaty on Mutual Assistance in Criminal Matters adopted by the General Assembly in resolution 45/117 of 14 December 1990 is used as a basis for the negotiations. Even more promising are some multilateral developments, such as the adoption of the scheme of mutual assistance in criminal matters within the Commonwealth adopted by common law jurisdictions in 1986, and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, opened for signature on 8 November 1990. That Convention, although prepared under the Council of Europe, involved in the preparation both common law and civil law States, and can thus be seen as a genuine attempt to "build bridges" between differing legal systems.

50. Finally, and again on the subject of money laundering, the most comprehensive multilateral examination of the subject is the report issued in February 1990 by the Financial Action Task Force on Money Laundering established by the Group of Seven, which contains 40 principal recommendations for dealing with the phenomenon. The aims of the Task Force were, inter alia, "to assess the results of cooperation already undertaken to prevent the utilization of the banking system and financial institutions for the purpose of money laundering, and to consider additional preventive efforts in this field, including the adoption of statutory and regulatory systems to enhance multilateral legal assistance".

51. The major thrust of the Financial Action Task Force is directed towards encouraging worldwide action against money laundering, including by the use of wire transfers. In its third report, dated 22 June 1992, it underscored the establishment of a monitoring mechanism to assess progress in the implementation of its anti-money laundering measures in its member States. At the same time, it has decided not to enlarge its membership for the present, but is actively developing links with other bodies in order to disseminate its work more widely.

IV. PROPOSALS FOR FOLLOW-UP AND IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTIONS 44/71 AND 45/123

52. Organized crime, particularly when carried out on a transnational basis, or using national boundaries in order to launder its proceeds, could rightly be described as one of the scourges of the twentieth century. In some parts of the world it has led to political instability and a failure to meet development targets. Senior judicial and law enforcement personnel who could not be corrupted have been assassinated. This situation highlights in a dramatic way the urgent need facing the international community to come to terms with certain inescapable realities and conclusions. Organized crime requires close, coordinated and result-oriented cooperation. It requires a strong and unequivocal commitment to action that will be meticulously planned and even better carried out. In order for this action to assume the dimensions that will make it effective, it is necessary to elaborate, agree on and abide by a common strategy, as the General Assembly has done in relation to drugs in the Global Programme of Action. In the fight against organized crime any divergence from a concerted international response will be readily and effectively exploited by organized criminal groups. It is widely accepted that a chain is as strong as its weakest link. This maxim should guide international action against organized crime and all countries should assist to ensure that weak links are eliminated where they exist.

53. These parameters serve to quantify and qualify the scope for action at the national, regional and international levels. Such action should be geared, inter alia, towards developing harmonious measures designed to overcome differences in legal systems and the fragmentation of law enforcement efforts resulting from geographic restraints imposed by concepts of sovereignty - these same differences and fragmentation not inhibiting organized criminal networks.

54. The United Nations can build on the work already done by assisting in developing new mechanisms, procedures, conventions and institutions necessary to combat organized crime with transnational aspects. Notable examples of work that could be undertaken, either under the leadership of the United Nations or by the United Nations in partnership with Governments, other intergovernmental and non-governmental organizations could include:

(a) Review of relevant legislation and ongoing development of legislative prototypes that would aim at harmonizing provisions and ensuring that the ability of organized crime to shift operations from one country or region to another will be curtailed and eventually eliminated;

(b) Measures to enhance accountability, in order to reduce corruption including the development of codes of conduct for public officials;

(c) Development of measures and safeguards against infiltration by organized crime of legitimate businesses;

(d) The ongoing monitoring and analysing of the incidence of transnational organized criminal activity and the dissemination of that information;

(e) The drafting of international treaties, declarations and recommendations pertaining to the definition of international offences, where this is regarded as appropraite by member States;

(f) The enhancement of existing, and developing of new, cooperative mechanisms, including extradition and mutual assistance in order to harmonize the approach to the problem and build bridges between differing legal systems;

(g) The drafting of model penal provisions dealing with selected offences;

(h) Increasing awareness to ensure a broad base of public participation and support for action against organized crime.

55. Another area where the United Nations could make a significant contribution is that of money laundering and the tracing, freezing and seizing of the proceeds of crime. Much work has been done in these areas by the United Nations, Governments, intergovernmental bodies such as the Council of Europe, the Commonwealth secretariat, the Organization of American States (OAS), academics, law enforcement agencies, and non-governmental organizations, as well as by, of course, the Financial Action Task Force earlier referred to. In many cases this work is not as widely available as possible, owing to the geographically based nature of these bodies. The United Nations can become a "partner" in these activities by widely disseminating this work, which could, in turn, lead to consistent laws, policies and practices and hence to a breakdown in the fragmentation of effort attributable to differences in legal systems. The Financial Action Task Force, for example, is actively seeking ways of disseminating its work beyond its own membership, and discussions have already taken place between the Task Force, the Crime Prevention and Criminal Justice Branch and the United Nations International Drug Control Programme on modalities to achieve this aim.

56. Finally, the importance of technical cooperation advisory services and other training activities, particularly for developing countries and emergent democracies as Member States in economic transition, cannot be overlooked. This assistance could be provided in a number of areas, such as legislation modernization and reform; creation of multidisciplinary teams and task forces; use of new developments in science and technology for detection and prevention purposes, as well as others identified in the annexes to Economic and Social Council resolution 1992/23.

V. CONCLUSIONS

57. Although it can be said that practically all countries are fully aware of the threat to their social fabric represented by the activities of organized crime, full cooperation in this respect still remains, to a large extent, a matter of intention rather than reality. Even in highly integrated subregions there is still much to be accomplished and numerous obstacles to smooth cooperation still remain.

58. The difficulties are varied. The most obvious is perhaps the existence of different legal systems and different definitions of crime. But also a too restrictive interpretation of concepts of sovereignty and jurisdiction, more applicable to the world of half a century ago, often constitutes a serious obstacle to cooperation.

59. The absence of the required administrative structures, coupled with normal bureaucratic inertia and resistance to change, often create additional difficulties to an already difficult undertaking.

60. Clearly, given the priority allocated to organized crime as a result of the decisions of both the Commission on Crime Prevention and Criminal Justice and the Economic and Social Council, time should be devoted to it by the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. Additionally, as structured and operationally oriented workshops are to be conducted in conjunction with the Congress, consideration should be given to one of these workshops dealing with organized crime, methods of detection and other measures, national, regional and international, to counteract it. Clearly the workshop would need to involve experts on a multidisciplinary basis, including investigators, prosecutors, financial and accounting specialists and the like.

61. Additionally, the changing world situation has altered the dimension of the problem of organized crime. In the past the problem has been looked at in the context of social and economic development and measures devised that were more closely related to whether countries were developed or developing. To this has been added a third dimension, namely countries that could not be regarded as developing in the traditional sense but are nonetheless undergoing traumatic political and economic change. As mentioned earlier, the pre-existing structures in those countries no longer exist and the developing democratic structures have neither the skills nor the means to deal with the problem. Already there is abundant evidence that organized crime is exploiting these situations. This could have a most negative effect, as in some senses the evil side of free market economies as painted by earlier regimes are now apparently proving to be correct. Unless organized crime in these countries can be curbed, there is a danger of growing opposition to the ongoing political and economic evolutions.

Notes

1/ The Committee ceased to exist with resolution 1992/1 of the Economic and Social Council, adopted on 6 February 1992, in pursuance of the recommendation made by the General Assembly in its resolution 46/152 of 18 December 1991. By the same resolution, the Council created the Commission on Crime Prevention and Criminal Justice.

2/ Oral presentation by the representative of the Italian Arma dei Carabinieri at the International Workshop on the Protection of Cultural and Artistic Property, Courmayeur, Aosta Valley, Italy, 25-27 June 1992.